

# Staff Summary Report



Council Meeting Date:

5/6/10

Agenda Item Number: \_\_\_\_\_

**SUBJECT:** This is the second and final public hearing to amend Chapter 16 of the Tempe City Code relating to License, Privilege and Excise Taxes.

**DOCUMENT NAME:** TCC CH 16 - LICENSES, TAXATION & MISC BUS REGS, ETC. (0503-16)  
Ordinance No. 2010.09

**COMMENTS:** These proposed changes apply the modifications adopted by the Municipal Tax Code Commission to Tempe's Tax Code.

**PREPARED BY:** Phil Falcosky, Tax Audit Supervisor, Ext. 8685

**REVIEWED BY:** Jerry Hart, Financial Services Manager, Ext. 8505

**LEGAL REVIEW BY:** Dave Park, Assistant City Attorney, Ext. 8907

**DEPARTMENT REVIEW BY:** Jerry Hart, Financial Services Manager, Ext. 8505

**FISCAL NOTE:** Only the change in Section 5, to add an exemption for the leasing of solar energy devices, has a potential impact on privilege tax revenues. Implementation of the proposed changes would have resulted in a minimal decrease in privilege tax revenues in each of the last two fiscal years.

**RECOMMENDATION:** Adoption of Ordinance No. 2010.09

**ADDITIONAL INFO:** Following each legislative session Arizona cities and towns, through the Unified Audit Committee, review new State laws to determine those areas of the Model City Tax Code (MCTC) that require adjustment to maintain conformity with State law. This committee meets with taxpayer advocates and business representatives to draft tax code changes, which are then forwarded to the Municipal Tax Code Commission for approval. Once the Commission approves the changes to the Model code, they are presented to each city council for adoption. The changes included in this package are:

Section 1: This is a technical correction, removing references in Section 260 to certain fees that are no longer authorized in State law. This section has a retroactive effective date of July 1, 2008 to align it with Sections 5-8 for ease of ordinance preparation.

Sections 2-4: These sections incorporate legislative changes to A.R.S. 42-6004, modifying the Development Fee exemption found in MCTC Sections 415, 416, and 417. These changes provide clarifying language without altering the legislative intent of the exemption. These sections have a retroactive effective date of September 1, 2006 to coincide with the original exemption.

Section 5: This is a technical correction, adding the exemption for Solar Energy devices to Section 450, Rental of Tangible Personal Property, allowing for the exempt leasing of solar energy devices. This language was inadvertently omitted when the same exemption was added to the Contracting, Retail, and Use tax activities last year. This change has a retroactive effective date of July 1, 2008 to align it with the other matching exemptions.

Section 6: This change adds language to Section 570 allowing the Tax Collector

to provide additional extensions of time for a taxpayer to file a protest. This simply codifies a long-standing practice of allowing taxpayers that are making the effort to comply, reasonable additional time to provide information before going to hearing. This section has a retroactive effective date of July 1, 2008 to align it with Sections 5 and 7 for ease of ordinance preparation.

Section 7: This change adds Regulation 415.3, which was previously added to the MCTC but never formally adopted by the City of Tempe. The Regulation incorporates the requirements of State law regarding the grandfathering of certain construction and retail sales contracts in the event of an increase in the city tax rate. This section has a retroactive effective date of July 1, 2008 to align it with Sections 5-8 for ease of ordinance preparation.

Section 8: This is also a technical correction, removing the reference to residency requirements in Regulation 350.3 that was overlooked when similar language was removed from the definition of "Out-of-State sales" in Section 100 last year. This change is also retroactive to July 1, 2008 to align it with the original definition change.